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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,098	02/03/2004	Gaetan Leclerc	2751-1A	2046

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Eric Fincham  
316 Knowlton Road  
Lac Brome, QC J0E 1V0  
CANADA

EXAMINER

LERNER, AVRAHAM H

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/771,098

Applicant(s)

LECLERC, GAETAN

Examiner

Avraham Lerner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 3 and 5 respectively recite the limitations "said electric motors" and "said batteries" in the first line of each. There is insufficient antecedent basis for these limitations in the claims, in that only one of each had been positively recited.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Moll et al. (U.S. Patent No. 3,860,081).

Moll et al. discloses a tractor and trailer arrangement comprising all elements as claimed, including an internal combustion engine (1) on the tractor, a plurality of axles on the trailer, means for driving the wheels on at least one of the trailer axles, a control system for operating the means for driving the wheels, the drive means comprising electric motors (12, 13, 16, 17) and being associated with wheels on a plurality of axles (see Fig. 1).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moll et al. in view of Hagin et al. (U.S. Patent No. 4,762,191).

Moll et al. discloses a tractor-trailer having all elements as claimed, as recited above in detail, except for teaching that the electric motors are powered by a battery or include regenerative braking capability.

Hagin et al. discloses that it is known in the art to provide a hybrid-drive articulated vehicle with batteries used to power electric wheel motors, and regenerative braking capability (see column 5, lines 29-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vehicle of Moll et al. with batteries and regenerative braking capability as taught by Hagin et al. in order to improve the efficiency of the vehicle as a whole. Such a modification would have reduced the gasoline consumption in Moll et al. by providing power to the electric motors from a rechargeable source, and as stated by Hagin et al. in column 5, lines 29-33, "the recovery of power when the vehicle brakes to a certain degree means that the reduction in fuel consumption will cause less damage to the environment".

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Picard (EPO Patent No. 0040111) discloses a powered trailer having an electric motor driving the rear wheels. Oswald et al. (U.S. Patent No. 4,685,527), De Monclin (U.S. Patent No. 5,147,003), Kemner et al. (U.S. Patent No. 5,178,403), Napier et al. (U.S. Patent No. 6,516,925 B1), Cooper (U.S. Patent Application Publication No. 2002/0056579) and Kramer et al. (U.S. Patent No. 6,419,037) disclose power tractor and trailer arrangements.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER  
PRIMARY EXAMINER

*A. Lerner* 9/15/04

September 15, 2004